

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA</b>	:	<b>Case No. 1: 04 CV 689</b>
	:	<b>Criminal No. 1: 02-CR-22</b>
<b>Plaintiff,</b>	:	
	:	<b>Chief Judge Beckwith</b>
<b>v.</b>	:	
	:	<b>United States' Response</b>
<b>SAMUEL A. ASHLEY, JR.,</b>	:	<b>to Defendant's "Motion</b>
	:	<b>for Discovery"(Show Cause Order)</b>
<b>Defendant.</b>	:	

---

The Defendant/Petitioner Samuel Ashley previously filed a Motion pursuant to §2255 raising various frivolous complaints as to his properly issued sentence. The United States duly responded to this Motion and Ashley filed a reply memorandum accompanied by a “Motion for Discovery” which appeared to be nothing more than part of his frivolous attack upon his legal sentence. This “new” motion essentially repeats Ashley’s requests for an evidentiary hearing that were included in his initial motion and which were dealt with in the Memorandum filed by the United States<sup>1</sup>. Nonetheless This Honorable Court has now directed the United States to file a memorandum in response to this second Motion and said response follows.

**The Current Motion is Merely Part of the §2255 Motion**

Ashley’s current Motion is nothing more than another frivolous attempt to attack his proper sentence. The United States, in its last filing (which is hereby incorporated by reference) demonstrated that Ashley’s complaints about his properly issued sentence was without merit and

---

<sup>1</sup>The United States did not respond to this “motion” because it is clearly nothing more than a thinly disguised second reply memorandum supporting the §2255 petition. Pursuant to the local rule 7.2, the United States was only permitted one responsive memorandum.

Ashley's plea and admissions before the Honorable Susan Dlott, United States District Judge, Southern District of Ohio, eliminated the vast majority of his complaints concerning the amount of loss his criminal schemes involved. Indeed, in page 2 of his current Motion (which is not supported by a memorandum as required by Local Rule 7.2(a)(1)) Ashley admitted that this Motion was merely a restatement of his request for discovery contained in his §2255 motion. As such, the United States has already addressed this Motion: the United States argued that the §2255 Motion was without merit and no discovery was needed because the record clearly established that Ashley's Sentence was proper and legal.

**This Current Motion Contains No Specific Discovery Request**

A review of this Motion fails to disclose any specific discovery material sought by Ashley. In other words, it is merely part of his previously filed §2255 motion and fails-standing alone as a separate motion-to move this Honorable Court for any relief whatsoever. The current Motion merely demands discovery without even including a cursory description of what sort of discovery Ashley wants. Again, the Court is forced to turn to the §2255 petition to discern what Ashley seeks to discover. Furthermore, Ashley does not specifically cite to this petition in his current Motion and again the Court is left to guess what exactly he is seeking in this "new" Motion. He complained in his Petition that his attorney failed to "file for discovery" and on page 16 of his Petition, he requests an "evidentiary" hearing presumably to question his trial counsel.

**Pursuant to the Reasons contained in the United States' Main Memorandum  
this Current Motion is Not Well Taken**

The United States has already filed a complete response to Ashley's frivolous §2255 Petition. The Plaintiff/Respondent notes that an evidentiary hearing concerning Mr. Aubin's performance as trial counsel for the prisoner is not necessary because Ashley's plea-which was

clearly executed properly by Judge Dlott-eliminates from further consideration the issues he seeks to resolve by this desired hearing.

Ashley's current motion does not contain any support for why such a hearing ought to be conducted<sup>2</sup>. Rather, he merely makes sweeping statements claiming that he has proven some of his allegations "beyond reasonable doubt" and that other unnamed allegations could be proven if non specified discovery was granted. The United States has already demonstrated that Ashley's previous allegations are without merit and his current Motion neither establishes any new arguments or even requests any cognizable relief. Therefore it should be denied.

For the reasons stated above, along with the reasons contained in Respondent United States main Memorandum, the United States prays that this Honorable Court dismiss Ashley's Motion.

Respectfully submitted,

GREGORY G. LOCKHART  
United States Attorney

*s/James M. Coombe*

JAMES M. COOMBE (0025538)  
Assistant United States Attorney  
221 East Fourth Street, Suite 400  
Cincinnati, Ohio 45202  
(513) 684-3711  
Fax: (513) 684-6972  
James.Coombe@usdoj.gov

---

<sup>2</sup>Again, the United States is forced to ASSUME that the discovery Ashley seeks is the evidentiary hearing he mentioned several times in his §2255 Petition since the current motion does not discuss any specific relief.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *United States' Response to Defendant's "Motion for Discovery" (Show Cause Order)* was served this 3<sup>rd</sup> day of January, 2005, by regular U.S. Mail, upon Mr. Samuel A. Ashley, Jr., #40656061, Federal Correctional Institution, P.O. Box 6001, Ashland, Kentucky 41105.

s/James M. Coombe

JAMES M. COOMBE (0025538)

Assistant United States Attorney